

PATENT
Patent App. Ser. No. 10/562,083
The Eclipse Group Docket No. HU09037USU (P01040US)

REMARKS

I. INTRODUCTION

Claims 1-8 and 12-21 are pending in this present application. Claims 9-11 are withdrawn from consideration and claims 1-8 and 12-21 stand rejected in the present application. In the June 5, 2009 Final Office Action, the Examiner:

1. Rejected claims 1-3 and 5 under 35 U.S.C. § 102(b) as being anticipated by *Ohler et al.* (U.S. Patent No. 6,424,910); and
2. Rejected claims 4, 6-8 and 12 under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507).
3. Rejected claims 4, 6-8 and 12-21 under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507) and *Zuber et al.* (U.S. Patent Application Publication No. 2002/0077746).

Applicant has amended claims 1 and 13, cancelled claims 19, 20 and 21 and filed new claims 22-24. No new matter has been introduced by these amendments. As to the rejections under 35 U.S.C. §§ 102(b) and 103(a), Applicant respectfully traverses.

II. REJECTION OF CLAIMS 1-3, 5, AND 12 UNDER 35 U.S.C. § 102(b)

Claims 1-3, 5, and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Ohler et al.* (U.S. Patent No. 6,424,910). The Examiner in the June 24, 2010, Non-Final Office Action, quotes from a paragraph in the *Ohler et al.* patent found between col. 12 line 63 and col. 13 line 8:

When a user indicates a desired meeting time when specifying a type of place at which a meeting with the other user is desired, the place search application may indicate recommended departure times for each user for each of the places that are convenient for both user (*sic*). The place search application may use the route calculation application for this purpose. Alternatively, the place search application may indicate recommended departure times for each user for only the place that is selected. If the desired meeting time is too soon for any of the places on the list of places that are convenient for both users, the place search application includes an indication that the places are all too far away to be reached by the desired meeting time. (relevant section highlighted)

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Applicant respectfully submits that the Office Action erroneously describes the teachings of *Ohler et al.* in an attempt to create a non-existent similarity to the recited claim language. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987), MPEP § 2131. "We thus hold that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102." *Net MoneyIN v. VeriSign, Inc.*, 545 F.3d 1359, 1371, 88 U.S.P.Q. 1751 (Fed. Cir. 2008).

Ohler et al., includes a number of different embodiments. In the cited paragraph from a series of comments in the musings on "Other Alternative Embodiments", *Ohler et al.* does teach communication of a failure to find a solution within certain parameters.

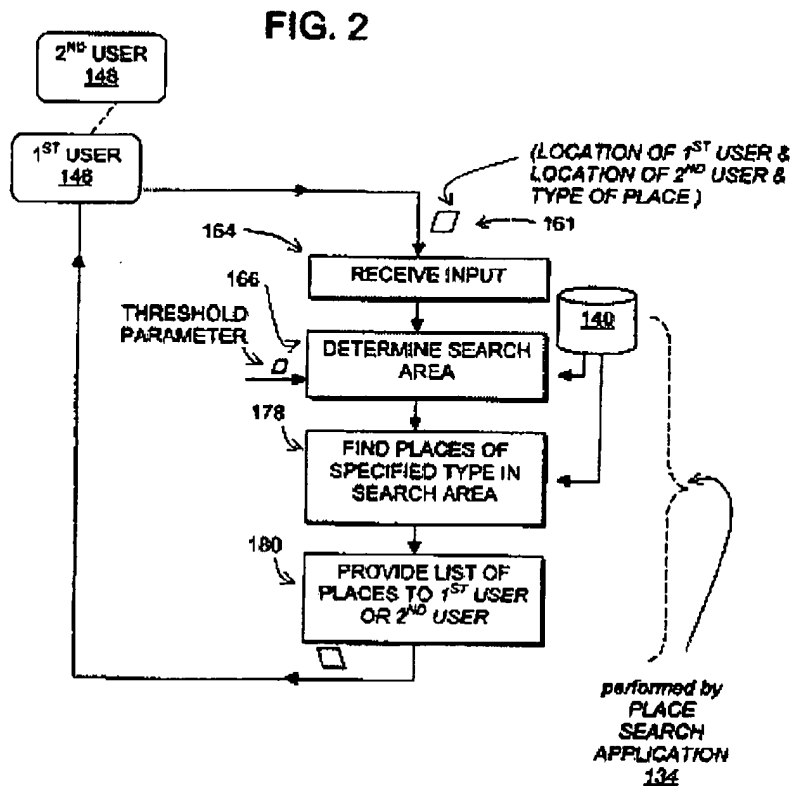
This does not mean that *Ohler et al.* teaches all the limitations in claim 1. As a threshold issue, *Ohler et al.* does not interact directly with the second navigation device. Thus, *Ohler et al.* does not do at least these two steps that require interaction with the second navigation device.

receiving a second set of data from a second navigation device by the first navigation device, the second set of data including data representing a current position of the second navigation device and second criteria for selecting a rendezvous position;

notifying the second navigation device when the identified rendezvous position and the second route violate the second criteria.

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Figure 2 of *Ohler et al.* is typical.



Notice that the only interaction with the 2nd user is from the 1st user to the 2nd user.

The two users 146 and 148 have a means to communicate with each other. The first user 146 and the second user 148 may use any means to communicate with each other. In one embodiment, the first user 146 and the second user 148 communicate with each other by telephone, e.g., 156 and 158. Alternatively, the first user 146 and the second user 148 communicate with each other by email, e.g., using computers 160 and 162. According to another alternative, the first user 146 and the second user 148 communicate with each other using instant messaging or chat. (Col. 4, lines 6-15) (emphasis added)

To the extent that the system in *Ohler et al.* receives the position of the second user, it is because the first user obtained that information and provided it to the *Ohler et al.* system. Likewise, to the extent that the second route for the second navigation device violates any

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condition, this is communicated by the *Ohler et al.* system to the first user, not the second user.

While the system disclosed in *Ohler et al.* might be useful for college friends living in different cities to find a place to meet for a meal in a location that splits the drive time between the friends, it does not solve the same problem or operate in the same manner as the present application.

The rejections under 35 U.S.C. §102 should be withdrawn for claims 1, 3, 5, and 12 (Note that the Office Action indicated that cancelled claims 9-11 stand rejected under § 102 but those claims are not pending).

III. REJECTION OF CLAIMS 4, 6-8, AND 12 UNDER 35 U.S.C. § 103(a)

Claims 4, 6-8, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507). Given the fundamental differences between the expression of teachings from the present application found in claim 1 and the *Ohler et al.* reference as discussed above, it is not necessary to focus on whether *Saiki* fills in the gaps in *Ohler et al.* acknowledged by the Office. The dependent claims are all allowable for at least the reasons that claim 1 is allowable.

IV. REJECTION OF CLAIMS 4, 6-8, AND 12-21 UNDER 35 U.S.C. § 103(a)

Claims 4, 6-8, and 12-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ohler et al.* (U.S. Patent No. 6,424,910) in view of *Saiki* (U.S. Patent No. 7,058,507) and *Zuber et al.* (U.S. Published Application No. 2002/0077746).

As discussed above, *Ohler et al.* does not provide the various elements in claim 1 and thus claims 4, 6-8, and 12 are patentable for at least the reasons that claim 1 is patentable.

Claim 13 has been amended to highlight that the present application teaches a method and devices adapted to find a rendezvous point based not only on the positions of the first and second users, but on their destinations. Support for this concept is widespread in the pending application but three examples of the support are provided here for the convenience of the Office.

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- See ¶ [0013] “In a further variant, the first and second vehicle may be guided to a common route point so that only a minimum detour from the initial routes of the first and second vehicles is necessary”.
- See ¶ [0017] “The calculation of the first positional data, which may, for example, represent a common point in the routes of the first and second navigation devices, on the basis of updated second data enables the first navigation device to track the second navigation device and to respond to a change of the situation, for example traffic jam, and the like”.
- See ¶ [0019] “According to another aspect of the present invention a method of coordinating routes of a plurality of navigation devices comprises transmitting position data of each of the plurality of navigation devices via a network to a host device, wherein the position data includes at least a destination of each route and the current position of each navigation device”.

Claim 13 has been amended to highlight that the user of the navigation device approves or disapproves the rendezvous position. See ¶ [0055] “The rendezvous position may further be reported to the user of the first navigation device 100A at the output device 105A so as to allow the user to reject the proposed rendezvous position and initiate a recalculation based on different criteria and parameters.”

Ohler et al. does not call for consideration of user destinations beyond the meeting place. *Saiki*, like *Ohler et al.* seeks to identify a meeting place as the destination rather than a stop along the way for the various users. *Zuber et al.* does not seem concerned about finding a common location for a meeting for two users but is cited by the Office for the limited purpose of noting that rejection by a user of a proposed solution can be used to trigger calculation of a new proposed route such as one that avoids use of a ferry boat.

Claims 14 to 18 depend from claim 13 and are allowable for at least the reasons that claim 13 is allowable.

Claims 19, 20 and 21 have been cancelled.

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V. DISCUSSION OF NEW CLAIMS

Claim 22 provides focus on a method of determining a rendezvous location based on current locations and current destinations for at least a first and second user via the first and second navigation devices. Claim 22 and dependent claims 23 and 24 are supported by the application and drawings as originally filed and thus do not add new matter.

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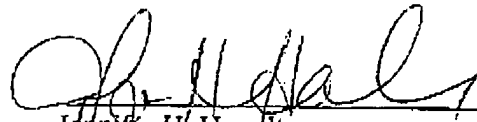
CONCLUSION

Favorable consideration is respectfully requested in view of the foregoing amendments and remarks.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to our Deposit Account No. 50-2542.

Respectfully submitted,

Dated: 9/24/10



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